

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ledingham et al.

Serial No.: 10/698,668

Filed: October 31, 2003

For: DATABASE ARCHITECTURE FOR AN
AIR TRAFFIC INFORMATION SYSTEM

Examiner: Unassigned

Art Unit: 2131

Confirmation No.: 1021

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR FILING BY OTHER THAN ALL THE INVENTORS
UNDER 37 C.F.R. § 1.47(a)

Dear Sir:

In response to the Notice to File Missing Parts of NonProvisional Application mailed February 2, 2004, Applicant respectfully submits a petition to file on behalf of inventors Jeff Zanin and Roman Zak, both of whom refuse to join in the present application. Included with this petition are the following items:

- 1) A statement of facts from Michael Boehm providing proof of pertinent facts concerning the refusal of inventor Jeff Zanin to execute the Declaration for filing in the U.S. Patent and Trademark Office.
- 2) A statement of facts from Michael Boehm providing proof of pertinent facts concerning the refusal of inventor Roman Zak to execute the Declaration for filing in the U.S. Patent and Trademark Office.
- 3) A combined Declaration and Power of Attorney signed by joint inventors Robert Ledingham, Keith Penny and Howard Aikins.

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130.00 OP

- 4) The required \$130.00 petition fee pursuant to 37 C.F.R. § 1.17(h) for the petition to file by other than all the inventors (37 C.F.R. § 1.47(a)).

The last known name and address of the joint inventors whom refuse to join in the present application and to execute and otherwise cooperate in the prosecution of the present patent application are:

Jeff Zanin
629 King Road
Burlington, Ontario, CANADA L7T 3K3

Roman Zak
6103 143a St. NW
Edmonton, Alberta, CANADA T6H 4G7

On October 31, 2003, Applicant filed a patent application, which required an executed declaration by all the inventors. As supported in the enclosed two statements of facts by Michael Boehm, inventors Zanin and Zak refused to join in the present application or execute a Declaration and Power of Attorney.

The required fee pursuant to 37 C.F.R. § 1.17(h) is enclosed. If there is a deficiency in fees, please charge our Deposit Account No. 02-2666.

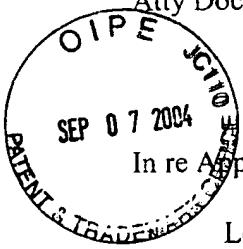
Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Dated: September 2, 2004

J. Scott Heileson
Reg. No. 46,765

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030
(408) 720-8300



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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF FACTS IN SUPPORT OF PETITION
FOR FILING UNDER 37 C.F.R. §1.47(a) - REFUSAL OF JEFF ZANIN TO JOIN

Dear Sir/Madam:

I, Michael Boehm, having personal knowledge of the facts set forth herein, hereby declare and say to the best of my knowledge and belief, after diligent inquiry, and without personal liability, except as disclosed herein, as follows:

1. I am an attorney for Gowling Lafleur Henderson LLP, representing NAV Canada, the assignee of the present application. For the months of June, July and August, 2004, I was seconded to NAV CANADA's legal department and therefore have knowledge of the subject matter hereof.
2. On March 23, 2004, Keith Penny, a co-inventor of the present application, was contacted by email by Chris Tanguay, an assistant with NAV CANADA's legal department, to have him and the other co-inventors review the present patent application papers (Specification, including Claims and Drawings) and sign: (i) the Declaration; and (ii) the Assignment (the "Documentation").
3. On or about April 1, 2004, Mr. Tanguay met in person with Mr. Penny to obtain Mr. Penny's assistance in securing the signature of Jeff Zanin, a co-inventor of the present application, on the Documentation. Mr. Penny agreed to forward the Documentation to Mr. Zanin shortly thereafter.

4. On April 19, 2004, Mr. Tanguay met with Mr. Penny who instructed NAV CANADA's legal department that he had spoke with each of the co-inventors of the present application about signing the Documentation and that he was awaiting signed copies of such Documentation.
5. On May 3, 2004, Mr. Tanguay contacted Mr. Penny to determine the status of the Documentation. Mr. Tanguay was informed that Mr. Penny had made no progress in obtaining signatures to the Documentation.
6. On June 29, 2004, Kelly Ann Hicks, Legal Counsel with NAV CANADA, received an email from Mr. Penny (a reproduction of which is attached hereto as Exhibit 1) stating that both Mr. Penny and Mr. Ledingham had signed the Documentation as required. Mr. Penny stated that it would be more effective if NAV CANADA's legal department contacted Mr. Zanin directly to secure the return of the Documentation. Mr. Tanguay followed up with a phone call to Mr. Zanin. According to co-workers, Mr. Zanin was away on holidays and would not be returning until mid-July.
7. On or about July 21, 2004, Mr. Tanguay contacted Mr. Zanin by telephone. Mr. Zanin was asked to sign the Documentation and, in addition, a NAV CANADA form entitled "Confidential Information and Property Rights Form", to be signed by all employees of NAV CANADA. Such form, among other things, assigns intellectual property rights from the employee to NAV CANADA. Mr. Zanin stated that he had refused to sign any Documentation on the basis that his name was spelled incorrectly in the Documentation and that he wanted additional compensation from NAV CANADA for assisting with the U.S. patent application. He stated that he would not sign any of the Documentation until he had an opportunity to speak with someone about the ramifications of the Documentation.
8. On August 3, 2004, Mr. Tanguay called Mr. Zanin to make an appointment for Mr. Zanin to speak with myself, in my capacity as a lawyer on secondment within NAV CANADA's legal department.
9. On August 4, 2004, I had a telephone conversation with Mr. Zanin. I explained what the Documentation meant, how it would impact Mr. Zanin and the U.S. patent application process generally. Mr. Zanin insisted on being further compensated, beyond his salary that he received for his work on the invention of

the present application, for cooperating with the U.S. patent application. I stated that NAV CANADA was not prepared to do so at present. Mr. Zanin agreed to consider whether or not to cooperate with the U.S. patent application.

10. On August 11, 2004, I received an email from Patricia Beck, a NAV CANADA labour relations advisor, requesting me to contact Mr. Zanin's supervisor, Dave Parco. I called Mr. Parco to discuss the U.S. patent application. Mr. Parco instructed me that Mr. Zanin had involved his union and that I was not to contact Mr. Zanin directly. Further, I was told that Mr. Zanin refused to sign any Documentation and not to approach him further on this matter, without first involving Mr. Zanin's union representative. I was also instructed that Mr. Zanin's union would take the position that Mr. Zanin is under no obligation to sign the Documentation and that any attempts to have him do so would be resisted by the union. This was the last contact I had with Mr. Zanin and any of his representatives.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on the information and belief are believed to be true; and further that all of these statements were made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: September 2, 2004


Michael Boehm

EXHIBIT 1

-----Original Message-----

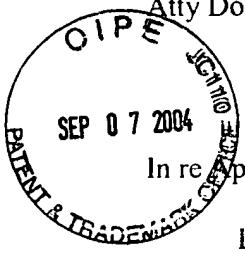
From: Penny, Keith
Sent: Tuesday, June 29, 2004 1:44 PM
To: Hicks, Kelly Ann
Subject: RE: Inventors signatures US applications

Hi Kelly Ann,

I have signed everything that was required and I believe Mr. Ledingham has as well.

It would be more effective if you could contact both Mr. Zak and Mr. Zanin directly to secure the return of the signed documents since I have no incentives of either a positive or negative nature to offer.

Keith



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Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

STATEMENT OF FACTS IN SUPPORT OF PETITION
FOR FILING UNDER 37 C.F.R. §1.47(a) – REFUSAL OF ROMAN ZAK TO JOIN

Dear Sir/Madam:

I, Michael Boehm, having personal knowledge of the facts set forth herein, hereby declare and say to the best of my knowledge and belief, after diligent inquiry, and without personal liability, except as disclosed herein, as follows:

1. I am an attorney for Gowling Lafleur Henderson LLP, representing NAV Canada, the assignee of the present application. For the months of June, July and August, 2004, I was seconded to NAV CANADA's legal department and therefore have knowledge of the subject matter hereof.
2. On March 23, 2004, Keith Penny, a co-inventor of the present application, was contacted by email by Chris Tanguay, an assistant with NAV CANADA's legal department, to have him and the other co-inventors review the present patent application papers (Specification, including Claims and Drawings) and sign: (i) the Declaration; and (ii) the Assignment (the "Documentation").
3. On or about April 1, 2004, Mr. Tanguay met in person with Mr. Penny to obtain Mr. Penny's assistance in securing the signature of Roman Zak, a co-inventor of the present application, on the Documentation. Mr. Penny agreed to forward the Documentation to Mr. Zak shortly thereafter.

4. On April 19, 2004, Mr. Tanguay met with Mr. Penny who instructed NAV CANADA's legal department that he had spoke with each of the co-inventors of the present application about signing the Documentation and that he was awaiting signed copies of such Documentation.
5. On May 3, 2004, Mr. Tanguay contacted Mr. Penny to determine the status of the Documentation. Mr. Tanguay was informed that Mr. Penny had made no progress in obtaining signatures to the Documentation.
6. On June 29, 2004, Kelly Ann Hicks, Legal Counsel with NAV CANADA, received an email from Mr. Penny (a reproduction of which is attached hereto as Exhibit 1) stating that both Mr. Penny and Mr. Ledingham had signed the Documentation as required. Mr. Penny stated that it would be more effective if NAV CANADA's legal department contacted Mr. Zak directly to secure the return of the Documentation. Mr. Tanguay followed up with a phone call to Mr. Zak. According to co-workers, Mr. Zak was away on holidays and would not be returning until mid-July.
7. On or about July 21, 2004, Mr. Tanguay contacted Mr. Zak by telephone. Mr. Zak was asked to sign the Documentation and, in addition, a NAV CANADA form entitled "Confidential Information and Property Rights Form", to be signed by all employees of NAV CANADA (the "Form"). The Form, among other things, assigns intellectual property rights from the employee to NAV CANADA. Mr. Zak stated that he had refused to sign any Documentation, but that he would sign the Form in lieu of the Documentation.
8. After receipt of Mr. Zak's Form, no further attempts have been made by NAV CANADA's legal department to have him execute the Documentation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on the information and belief are believed to be true; and further that all of these statements were made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, of Title 18 of the

Atty Docket No.: 6486.P003

United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: September 2, 2004



Michael Boehm

EXHIBIT 1

-----Original Message-----

From: Penny, Keith
Sent: Tuesday, June 29, 2004 1:44 PM
To: Hicks, Kelly Ann
Subject: RE: Inventors signatures US applications

Hi Kelly Ann,

I have signed everything that was required and I believe Mr. Ledingham has as well.

It would be more effective if you could contact both Mr. Zak and Mr. Zanin directly to secure the return of the signed documents since I have no incentives of either a positive or negative nature to offer.

Keith



Attorney's Docket No.: 06486.P003

Patent

First Named Inventor: Robert Ledingham, et al.

Check One:

- Declaration Submitted with
Initial Filing **OR**
 Declaration Submitted After
Initial Filing (Surcharge under
37 C.F.R. § 1.16(e) Required).

Complete If Known:

Application No.: 10/698,668
Filing Date: October 31, 2003
Art Unit: _____
Examiner Name: _____

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

DATABASE ARCHITECTURE FOR AN AIR TRAFFIC INFORMATION SYSTEM

the specification of which

is attached hereto.
was filed on (MM/DD/YYYY) 10/31/2003 as
United States Application Number 10/698,668
or PCT International Application Number _____
and was amended on (MM/DD/YYYY) _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>	<u>Priority Claimed?</u>	<u>Certified Copy Attached?</u>
<u>2,444,827</u> (Number)	<u>Canada</u> (Country)	<u>10/10/2003</u> (Foreign Filing Date - MM/DD/YYYY) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith.

Direct all correspondence to (check one):

Customer Number or Bar Code Label _____ OR

Correspondence Address Below:

James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone: (408) 720-8300
Fax: (408) 720-8383

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Robert Ledingham

Inventor's Signature R. L Date Apr. 1 /04

Residence Manotick, Ontario, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 5452 West River Drive
Manotick, Ontario, Canada K4M 1G7

Full Name of Second/Joint Inventor Keith Penny

Inventor's Signature K. Penny Date Mar 25 /04

Residence Orleans, Ontario, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 1821 Nicolet Way
Orleans, Ontario, Canada K4A 3S3

Full Name of Third/Joint Inventor Roman Zak

Inventor's Signature _____ Date _____

Residence Edmonton, Alberta, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 6103 143a St. NW
Edmonton, Alberta, Canada T6H 4G7

Full Name of Fourth/Joint Inventor Jaff Zanin

Inventor's Signature _____ Date _____

Residence Burlington, Ontario, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 629 King Road
Burlington, Ontario, Canada L7T 3K3

Full Name of Fifth/Joint Inventor Howard Aikins

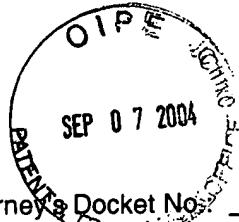
Inventor's Signature _____ Date _____

Residence Monroe, Washington, USA Citizenship Canada
(City, State, Country) (Country)

Mailing Address _____

APPENDIX A

William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; W. Thomas Babbitt, Reg. No. 39,591; Jordan M. Becker, Reg. No. 39,602; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Cory G. Claassen, Reg. No. 50,296; Thomas M. Coester, Reg. No. 39,637; Mimi D. Dao, Reg. No. 45,628; Stephen M. De Klerk, Reg. No. 46,503; Daniel M. De Vos, Reg. No. 37,813; Sanjeet Dutta, Reg. No. 46,145; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; Adam Furst, Reg. No. 51,710; Angelo J. Gaz, Reg. No. 45,907; Andre M. Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Jeffery S. Heileson, Reg. No. 46,765; James A. Henry, Reg. No. 41,064; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; Aslam A. Jaffery, Reg. No. 51,841; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Steven Laut, Reg. No. 47,736; Suk S. Lee, Reg. No. 47,745; Gordon R. Lindeen III, Reg. No. 33,192; Jan C. Little, Reg. No. 41,181; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Raul D. Martinez, Reg. No. 46,904; Paul A. Mendonsa, Reg. No. 42,879; Jonathan S. Miller, Reg. No. 48,534; Heather M. Molleur, Reg. No. 50,432; Richard A. Nakashima, Reg. No. 42,023; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Philip A. Pedigo, Reg. No. 52,107; Marina G. Portnova, Reg. No. 45,750; Joseph A. Pugh, Reg. No. 52,137; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Saina S. Shamilov, Reg. No. 48,266; Kevin G. Shao, Reg. No. 45,095; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; Lisa Tom, Reg. No. 52,291; Kerry D. Tweet, Reg. No. 45,959; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Mark R. Vatuone, Reg. No. 53,719; Lester J. Vincent, Reg. No. 31,460; John P. Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; Chui-Kiu Teresa Wong, Reg. No. 48,042; and Norman Zafman, Reg. No. 26,250, my patent attorneys, and Brent Vecchia, Reg. No. 48,011 and Lehua Wang, Reg. No. 48,023, my patent agents, of BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800, and James R. Thein, Reg. No. 31,710, my patent attorney, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.



Attorney's Docket No. 06486.P003

Patent

First Named Inventor: Robert Ledingham, et al.

Check One:

- Declaration Submitted with
Initial Filing **OR**
 Declaration Submitted After
Initial Filing (Surcharge under
37 C.F.R. § 1.16(e) Required).

Complete If Known:

Application No.: 10/698,668
Filing Date: October 31, 2003
Art Unit: _____
Examiner Name: _____

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

DATABASE ARCHITECTURE FOR AN AIR TRAFFIC INFORMATION SYSTEM

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 was filed on (MM/DD/YYYY) 10/31/2003 as
United States Application Number 10/698,668
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and was amended on (MM/DD/YYYY) _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above.

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<u>Prior Foreign Application(s)</u>	<u>Priority Claimed?</u>	<u>Certified Copy Attached?</u>				
<u>2,444,827</u> (Number)	<u>Canada</u> (Country)	<u>10/10/2003</u> (Foreign Filing Date - MM/DD/YYYY)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith.

Direct all correspondence to (check one):

Customer Number or Bar Code Label _____ OR

Correspondence Address Below:

James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone: (408) 720-8300
Fax: (408) 720-8383

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Robert Ledingham

Inventor's Signature _____ Date _____

Residence Manotick, Ontario, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 5452 West River Drive
Manotick, Ontario, Canada K4M 1G7

Full Name of Second/Joint Inventor Keith Penny

Inventor's Signature _____ Date _____

Residence Orleans, Ontario, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 1821 Nicolet Way
Orleans, Ontario, Canada K4A 3S3

Full Name of Third/Joint Inventor Roman Zak

Inventor's Signature _____ Date _____

Residence Edmonton, Alberta, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 6103 143a St. NW
Edmonton, Alberta, Canada T6H 4G7

Full Name of Fourth/Joint Inventor Jaff Zanin

Inventor's Signature _____ Date _____

Residence Burlington, Ontario, Canada Citizenship Canada
(City, State, Country) (Country)

Mailing Address 629 King Road
Burlington, Ontario, Canada L7T 3K3

Full Name of Fifth/Joint Inventor Howard Aikins

Inventor's Signature HA Date Aug 31/2004

Residence Monroe, Washington, USA Citizenship Canada
(City, State, Country) (Country)

Mailing Address 17118 Wales Street S.E.
Monroe, Washington 98272

APPENDIX A

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